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JUN 06 2007

OFFICE OF PETITIONS

In re Application of :
Hideki Tsuchida et al :
Application No. 10/010,193 : **DECISION ON PETITION**
Filed: December 6, 2001 :
Attorney Docket No. 51334 :

This is a decision on the petition, filed March 19, 2004, and resubmitted on January 23, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 27, 2003, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 27, 2003.

Petitioner states that a timely reply was mailed via certificate of mailing on July 11, 2003, which included the following papers: An amendment and response to the Office Action dated May 27, 2003; Copy of papers previously filed to correct the filing date; and a copy of the return receipt postcard. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated July 11, 2003, which would have rendered the reply timely if received.

Petitioner should be aware that the papers submitted on March 19, 2004 and the copy of the papers submitted on January 23, 2007 reference Application No. 10/010,913 instead of Application No. 10/010,193.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 27, 2003 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on July 11, 2003.

This application is being referred to Technology Center AU 1773 for appropriate action in the normal course of business on the reply received with petition.



Karen Creasy
Petitions Examiner
Office of Petitions